

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

PATRICIA MCLEAD AND PATRICK	§	
MCLEAD, INDIVIDUALLY AND AS	§	
REPRESENTATIVE OF THE ESTATE OF	§	
GARRETT MCLEAD, DECEASED; ET AL.	§	
Plaintiffs	§	
	§	
v.	§	CIVIL ACTION NO. C-08-264
	§	
L-3 COMMUNICATIONS VERTEX	§	
AEROSPACE, LLC	§	
Defendant	§	

**AFFIDAVIT OF TOM HARKNESS  
IN SUPPORT OF THE JOINT MOTION FOR ENTRY  
OF AN AGREED PROTECTIVE ORDER**

BEFORE ME, the undersigned authority, on this day personally appeared Tom Harkness who being first duly sworn, stated as follows:

“My name is Tom Harkness. I am an attorney at the law firm of Whitehurst Harkness, Ozmun & Brees, which represents the Plaintiffs in the above styled case. I am over the age of 18 and am fully capable and qualified to make this affidavit.

“This affidavit is being provided in support of the Joint Motion for Entry of An Agreed Protective Order.

“I have been the point person on our joint efforts to obtain the maintenance records, flight records and wreckage for the helicopter made the basis of this suit.


“I have been working directly with Major Deborah Woolverton of the Litigation Division of the U.S. Army Legal Services Agency. As the attached letter from Lt. Col. Robitaille reflects, the Army has consolidated our various requests in their office. While

they indicate it may take 90 days to review and release all the information they are compiling, Major Woolverton has told me that most of the information is already there and can be released soon after entry of the Protective Order. I have worked closely with their office in drafting the Joint Protective Order and have received an email approving of its language.

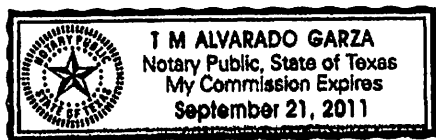
“Attached to this affidavit are true and correct copies of the following:

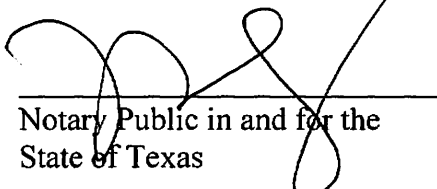
“Exhibit 1, 12 Dec 08 letter from Lt. Col. Robitaille.

“Further affiant, sayeth not.”

  
Tom Harkness

SUBSCRIBED AND SWORN TO, before me by the said Tom Harkness on this the **18th** day of December, 2008, to certify which witness my hand and seal of office.



  
Notary Public in and for the  
State of Texas



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY LEGAL SERVICES AGENCY  
901 NORTH STUART STREET  
ARLINGTON, VIRGINIA 22203-1837

REPLY TO  
ATTENTION OF:

December 12, 2008

Litigation Division

Thomas R. Harkness  
Whitehurst, Harkness, Ozmun & Brees, PC  
P.O. Box 1802  
Austin, Texas 78767

Dear Mr. Harkness:

We received your letter dated December 8, 2008. In an effort to assist you, we ask that you consolidate all the outstanding Touhy requests into one request directed to United States Army Legal Services Agency. The Freedom of Information Act requests are separate from Touhy and will have to be handled by the individual offices. Major Woolverton has been in contact with many of the offices mentioned in your letter and continues to identify, locate, and gather the documents you requested. After we have located the responsive documents we will determine if they are releasable. Attached are three documents that have been released without restrictions; Training Manual 55-2835-209-23, Training Manual 1-1500-328-23, and Department of Army Pamphlet 738-751. These documents respond to requests m, u, and v of your October 9, 2008 letter.

If you wish to subpoena official Army records, you may direct the subpoena to the Department of the Army or the Secretary of the Army and may be sent to my attention at the address listed above.

With regard to the protective order, we would ask that it state that any names, units, sensitive information, or identifying information concerning the military and military personnel will be filed under seal. The Army's agreement to the terms of the protective order does not apply to classified information or waive any other privilege the Army may have.

Once we have the protective order, we can release addition documents to you. Due to the large number of documents that have to be reviewed for release, we will need at least 90 days from the date of the protective order to complete production.

If you have any question, please contact me at (703) 696-1635 or Major Woolverton at (703) 696-1636.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin K. Robitaille", is located below the "Sincerely," text.

Kevin K. Robitaille  
Lieutenant Colonel, Judge Advocate  
Chief, General Litigation Branch